

**United States Department of Labor
Employees' Compensation Appeals Board**

H.D., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Omaha, NE, Employer**

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**Docket No. 12-927
Issued: February 12, 2013**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER AFFIRMING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On March 29, 2012 appellant filed a timely appeal from the February 2, 2012 Office of Workers' Compensation Programs' (OWCP) decision which affirmed the denial of his claim for a right knee condition. The appeal was docketed as No. 12-927. The Board has duly considered the matter and finds that OWCP properly denied appellant's claim.

OWCP has previously adjudicated appellant's claim for a right knee condition. On November 15, 2001 appellant filed an occupational disease claim alleging that he sustained heel spurs on the right foot and numbness on the left side of his left foot. He indicated that he was aware of the disease or illness on April 19, 2001.¹ On November 12, 2002 OWCP accepted the claim for aggravation of right heel spur and bilateral plantar fasciitis. Appellant sought to have his claim expanded to include right-sided lateral meniscus pain in the knee. Following medical development, including referral of appellant to an impartial specialist,² OWCP, in a June 18, 2003 decision, denied the claim for a right knee condition.

¹ This was developed under claim number xxxxxx559.

² In an April 30, 2003 report, Dr. Michael Morrison, a Board-certified orthopedic surgeon selected as an impartial medical examiner, diagnosed degenerative arthritis and possible degenerative meniscus tear of the right knee. He noted that appellant attributed his condition to wear and tear in his knee joint due to repetitive walking since 1981. Dr. Morrison noted that appellant denied any specific injury to the knee and the physician found that appellant's right knee condition was not work related.

On June 7, 2010 appellant filed an occupational disease claim alleging that he sustained a right knee condition in the performance of duty.³ He indicated that his condition was due the walking and climbing of stairs at work and that he used to walk “15 to 20 miles a day” and carried a heavy bag. Appellant alleged that he first became aware of the injury and its relation to his work on August 11, 2003. He did not stop work. The employing establishment noted that appellant stopped carrying mail when it found out he was having foot surgery. It also indicated that he was last exposed to these factors on August 11, 2003.

The Board finds that the June 7, 2010 occupational disease claim is duplicative of appellant’s November 15, 2001 claim and was properly denied.⁴ As noted, in a June 18, 2003 decision, OWCP denied the claim for a right knee condition after extensive medical development. The employing establishment advised that appellant was last exposed to factors that he claimed caused his knee condition on August 11, 2003. Appellant’s June 7, 2010 claim does not clearly indicate that he is asserting that his injury resulted from any new employment factors beyond those that were considered at the time that OWCP denied appellant’s claim for a right knee condition on June 18, 2003 in claim number xxxxxx559.⁵ He has not alleged a new claim and OWCP’s denial of the claim under file number xxxxxx589 must be affirmed.

IT IS HEREBY ORDERED THAT the February 2, 2012 Office of Workers’ Compensation Programs decision is affirmed.

Issued: January 25, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees’ Compensation Appeals Board

³ This was developed under claim number xxxxxx589.

⁴ OWCP procedures contemplate that duplicate cases should not be created and that development should not occur under the duplicate case. *See* Federal (FECA) Procedure Manual, Part 1 -- Mail and Files, *Duplicate Cases*, Chapter 1.400.7 (February 2000). *See also* W.M., Docket No. 09-1609 (issued April 5, 2010).

⁵ Appellant did not appeal the June 18, 2003 OWCP decision in claim number xxxxxx559.